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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,110	09/30/2003	Marcus Kellerman	14972US02	4986
23446	7590	04/04/2006	EXAMINER	
MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661			REVAK, CHRISTOPHER A	
			ART UNIT	PAPER NUMBER
			2131	

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/675,110

**Applicant(s)**

KELLERMAN ET AL.

**Examiner**

Christopher A. Revak

**Art Unit**

2131

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a)  The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2.  The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a)  They raise new issues that would require further consideration and/or search (see NOTE below);
  - (b)  They raise the issue of new matter (see NOTE below);
  - (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 13-15 and 21-28.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-12 and 16-20.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.
12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.
13.  Other: \_\_\_\_\_.

CHRISTOPHER REVAK  
PRIMARY EXAMINER

CL 3/30/06

Continuation of 11. does NOT place the application in condition for allowance because: It is argued by the applicant that Suzuki fails to disclose "a second communication device operatively coupled to the network, the second communication device receiving, from the first communication device, a device profile relating to the first communication device, and the second communication device sending the device profile and media content to the server, the server reformatting the media content based on the device profile." The examiner respectfully disagrees, for Suzuki discloses of a client, interpreted as the first communication device, and multimedia contents server, interpreted as the second communication device, are operably connected to the network. The multimedia contents server, interpreted as the second communication device, receives client information, interpreted as the device profile, related to the client, interpreted as the first communication device, from the client, interpreted as the first communications device, and the contents server, interpreted as the second communication device, sends the client information, interpreted as the device profile, and media content to the data access server. The data access server reformats the media content based on the client information, interpreted as the device profile, please refer to column 3, lines 38-49 & 61-63, column 6, lines 21-28 and column 7, lines 23-30, and as shown in Figure 1. It appears that the applicant is intending for specific meaning to be applied to "a device profile", however the examiner is broadly interpreting that information as being information supplied by the client that dictates what format the media is to be altered into. Suzuki discloses that the data structure information identifies an encoding format that is compatible with the client in which the data is provided to the client in the particular format, see column 3, lines 42-49. Allowable independent claims 13 and 21 both recite of a first server receiving device profile of a first device and media content from a second device, a second server receives both the device profile and media content from the first server and reformats the media content based on the device profile of the first device. These limitations were identified as being allowable over the prior art reference of Suzuki and they are not presently recited in independent claims 1 and 16.